

State of Hawaii Campaign Spending Commission

Noncandidate Committee Training

May 2024

Mission

To maintain the integrity and transparency of the campaign finance process by enforcing the law, educating the public, administering public financing, and training campaign committees in order to encourage compliance.

Who We Are

- **5 Commissioners** – Volunteers from the community appointed by the Governor from a list of 10 nominees submitted by the Judicial Council. Commissioners serve a 4-year term and may be reappointed for an additional 4-year term.
- **5 Staff** – Executive Director, Associate Director, General Counsel, Administrative Assistant, and Elections Assistant
- Administratively attached to the Department of Accounting and General Services (DAGS)

Resources and Tools

- Law – Hawaii Revised Statutes, Chapter 11, Part XIII Campaign Finance (§11-301 to §11-435)
- Rules – Hawaii Administrative Rules (Chapters 3-160 and 3-161)
- Guidance – Advisory Opinions, Guidebooks, Cyber-Learning Videos
- Informal Guidance – Phone calls and CSC eblasts
- CSC Website and Social Media (Facebook and X posts)
- Data Visualization Apps and Online Searchable Database

CSC Website

ags.hawaii.gov/campaign

The screenshot shows the homepage of the State of Hawaii Campaign Spending Commission. At the top left is the state seal and the text "State of Hawaii Campaign Spending Commission". To the right is a search bar and social media icons for Twitter, Facebook, and YouTube. A dark green navigation bar contains links for Home, About, Legal Resources, Data, Contribution Limits, Email Subscription, and Contact Us. Below the navigation is a carousel of five member portraits with the text "ABOUT THE CAMPAIGN SPENDING COMMISSION" and a "Read More" link. To the right of the carousel is a vertical menu with six items: Candidate Committees, Noncandidate Committees, Legal Names of Candidates, Electioneering Communications, Election Summaries, and Downloadable Calendar. At the bottom left is the "Aloha!" logo, and at the bottom right is a "RECENT TWEETS" section.

What is a Noncandidate Committee (“NCC”)?

“Noncandidate Committee” means:



- An organization, association, party, or individual
- That has the purpose of making or receiving contributions, making expenditures, or incurring financial obligations
- To influence the nomination for election, or the election, of any candidate to office, or for or against any questions or issues on the ballot



Registration

Registration

Registration as a Noncandidate Committee is required:

- Within ten (10) days of receiving contributions or making or incurring expenditures of more than \$500, in the aggregate, in a two-year election period; or
- Within two (2) days of receiving contributions or making expenditures of more than \$500, in the aggregate, in a two-year election period IF it is within 30 days prior to an election

A noncandidate committee must register by electronically filing an Organizational Report




Registration – Electronic Filing Form

How does a Noncandidate Committee register?

- File the “Noncandidate Committee Electronic Filing Form”
- Obtain signatures from the chairperson and treasurer
- eSign, mail, or deliver the form to the Commission to obtain a username and password for the Noncandidate Committee Filing System (“NCFS”)
- A username and password is sent to the email address listed on the Electronic Filing Form

Noncandidate Committee Electronic Filing Form



STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
235 S. Beretania Street, Room 300
Honolulu, Hawaii 96813
Phone: (808) 586-0285/Fax: (808) 586-0288
www.hawaii.gov/campaign

FOR OFFICE USE ONLY

Reg. No. _____

Date _____

NONCANDIDATE COMMITTEE ELECTRONIC FILING FORM

Noncandidate Committee Name: _____

Please check **one** box that applies to your committee's classification:

Standard Noncandidate Committee Political Party (Hawaii Revised Statutes ("HRS") §11-61)
 Ballot Issue Committee Independent Expenditure Committee ("Super PAC")

Each noncandidate committee must electronically register with the Campaign Spending Commission ("Commission"):

- Within **10 days** of receiving contributions or making or incurring expenditures of more than **\$500**, in the aggregate, in a two-year election period; or
- Within **2 days** of receiving contributions or making or incurring expenditures of more than **\$500**, in the aggregate, in a two-year election period if the **\$500** threshold is exceeded within thirty (30) days prior to an election.

In order to register, the committee must submit this form to the Commission. A user name and password for the Administrator and User (typically the committee's treasurer) will be sent to the email address you provide on this form. The committee will enter the Administrator's user name and password to login to the Noncandidate Committee Filing System and complete the registration process by electronically filing an organizational report online. Once registered, a noncandidate committee must file periodic campaign disclosure reports online according to a reporting schedule.

By signing this form, the chairperson and treasurer acknowledges and certifies that the information on all reports electronically filed online are true, complete, and accurate. See, HRS §§11-321(c)(2), 11-331(b), and 11-340(a). This form also represents written acceptance of appointment for the chairperson and treasurer pursuant to HRS §11-321(c)(2). If a new chairperson or treasurer is appointed, the committee must:

- Submit a new Electronic Filing Form to the Commission signed by the chairperson and treasurer whether newly appointed or not as indicated by the applicable check box below: and
- Electronically file an amended organizational report online with the current contact information of the newly appointed chairperson and/or treasurer within 10 days of the change.

Failure to do so will result in a minimum fine of \$1,000 per violation. The Commission will also publish the noncandidate committee's name on its website for failing to file/amend the organizational report within the time required.

IMPORTANT

A noncandidate committee whose aggregate contributions and aggregate expenditures for the election period total \$1,000 or less is only required to electronically file a Final Election Period Report covering January 1 of the election year through the day of the General Election and all subsequent reports thereafter until the committee's registration is approved for termination. If your committee intends to stay within the \$1,000 threshold for the election period, please check this box by the **5th calendar day before the due date of the preliminary primary report due ten days before the election.**

WARNING

If your noncandidate committee exceeds the \$1,000 threshold at any time during the applicable two-year election period, the committee must file the next required periodic report disclosing all activity from the beginning of the election year as well as all subsequent reports until the committee terminates their registration with the Commission.

NCC E-Filing Form (Rev. 07/2023)

***NOTE:** By signing this form, the chairperson and treasurer are certifying that the information on all electronically filed reports are true, complete, and accurate.

If any of the officers change:

(1) a new "Noncandidate Committee Electronic Filing Form" must be signed by the new chairperson and treasurer then eSigned, mailed, or delivered to the Commission; and

(2) an amended Organizational Report must be electronically filed within ten (10) days of the change.

Registration – Organizational Report

- Launch your internet browser and go directly to the NCFS login page at: <https://csc.hawaii.gov/NCFS>
or
- Go to ags.hawaii.gov/campaign and click on the “Noncandidate Committee Filing System” image at the bottom of the Home Page
 - Enter your username and password to log in to the NCFS
- Complete and file your Organizational Report in the NCFS



Noncandidate Committee System Login Page

Department of Accounting and General Services
Campaign Spending Commission

Noncandidate Committee Filing System Login

UserName*

Password*

* Required field(s)

Login

[Forgot Password?](#)

[System Requirements](#)

[Login Help](#)

If you need further assistance, please call the Commission
at (808) 586-0285.

Registration – Organizational Report



Noncandidate Committee Depository (Bank) Chairperson Treasurer Custodian of Books and Accounts Deputy Chairperson (Optional) Deputy Treasurers (Optional) \$1,000 or Less Filer

▼ Noncandidate Committee

Committee Name * Hawaii PAC

Address 1 * 111 Bishop Street

Address 2

City * Honolulu

State * HI

Zip Code * 96813

Bus. Phone * (808) 555-7777

Area, Scope, or Jurisdiction * Real Estate

* Required field(s)

Copy Treasurer's Data to Custodian File Report

By clicking the "File Report" button, the chairperson and treasurer of the noncandidate committee affirms their acknowledgement and certification on the "Noncandidate Committee Electronic Filing Form" that the information on this electronically filed report is true, complete, and accurate. See, Hawaii Revised Statutes §§11-321(c)(2), 11-331(b), and 11-340(a).

* NOTE: Very important that this information is current because by law all Commission correspondence and communication will go to the address listed via first class mail. The Commission may also try to call you so it is important that the phone numbers posted are correct! The Commission will also be using the email address listed to communicate with you via eblasts.

Registration – Organizational Report

HAWAII CAMPAIGN SPENDING COMMISSION

ORGANIZATIONAL REPORT NONCANDIDATE COMMITTEE

THIS REPORT IS FILED FOR THE FOLLOWING PURPOSE: Amended

1. NONCANDIDATE COMMITTEE:

(a) Committee Name:	Hawaii PAC	2. Area, Scope, or Jurisdiction:	Real Estate
(b) Address:	111 Bishop Street	(a) Political Party:	
	Honolulu HI 96813	(b) Ballot Issue Description:	
		(c) Single Candidate Name:	
(c) Phone:	(808) 555-7777		

3. COMMITTEE DEPOSITORY (Bank):

(a) Name:	Hawaii Bank
(b) Address:	222 Bishop Street Honolulu HI 96813
(c) Account Number:	111222333

OFFICERS:

4. CHAIRPERSON

(a) Name:	Strategist, Stan S.
(b) Address:	456 Alakea Street
	Honolulu HI 96813
(c) Phone: (Bus)	(808) 111-2222
(Res)	(808) 111-2222
(d) Occupation:	President
(e) Principal Place of Business:	ABC Strategists

5. TREASURER

(a) Name:	Treasurer, Trish T.
(b) Address:	333 Vineyard Street
	Honolulu HI 00000
(c) Phone: (Bus)	96813
(Res)	(808) 333-4444
(d) E-mail Address:	treasurer@hawaiipac.com
(e) Occupation:	(808) 333-4444
(f) Principal Place of Business:	ABC Accountants

Publication of Committee Name

Effective March 31, 2023, any noncandidate committee who fails to register with the Commission or correct their organizational report will have their name published on the Commission's website until they comply.

Effective March 31, 2023, any noncandidate committee who violates all or any part of HRS §11-323 (Organizational report, noncandidate committee) shall be subject to a minimum fine of \$1,000 per violation.



Reporting

Reporting

- ✓ Noncandidate committees are required to electronically file a series of disclosure reports by specified due dates on the NCFS
- ✓ To be timely filed, your reports must be electronically filed on or before 11:59 p.m. Hawaiian standard time on the filing deadline
- ✓ These reports list contributions received, donations received, candidate contributions made, expenditures, other receipts, unpaid expenditures, and durable assets
- ✓ You must maintain and preserve records including bank records and reports for at least **five (5) years** after the report is filed as well as keep such information available for audit, inspection, and examination



Reporting - Reporting Deadlines

- Due dates for reports are established by the Hawaii Revised Statutes
- Reporting schedules are posted on our website ags.hawaii.gov/campaign
- Click on “Noncandidate Committees” and then click “Reporting Deadlines”
- Add the Commission’s Downloadable Calendar to your Google, Apple, Outlook or other Calendar App



Reporting - Reporting Deadlines

The same format is used for each Disclosure Report; however, each report has a different name depending on the due date and reporting period it covers:

REPORTING DEADLINES		
Report Name	Reporting Period	Reporting Deadline
Preliminary Primary	January 1 - July 26, 2024	07/31/2024
Final Primary	July 27 - August 10, 2024	08/30/2024
1st Preliminary General	August 11 - September 26, 2024	10/01/2024
2nd Preliminary General	September 27 - October 21, 2024	10/28/2024
Final Election Period	October 22 - November 5, 2024	12/05/2024

As a courtesy, the Commission does reminder eblasts and X posts prior to each reporting deadline.

Reporting – Reporting Deadlines

- Noncandidate Committee Filing System / Reporting Deadlines screen
- The Commission will add the applicable Disclosure Reports to your reporting schedule so they are available for you to preview, print, validate and file.

REPORTING DEADLINES		
Report Name	Reporting Period	Reporting Deadline
Preliminary Primary	January 1 - July 26, 2024	07/31/2024
Final Primary	July 27 - August 10, 2024	08/30/2024
1st Preliminary General	August 11 - September 26, 2024	10/01/2024
2nd Preliminary General	September 27 - October 21, 2024	10/28/2024
Final Election Period	October 22 - November 5, 2024	12/05/2024

Navigation icons: ⏪ ⏩ 1 ⏪ ⏩

Reporting

- Chairpersons and Treasurers certify on the “Noncandidate Committee Electronic Filing Form” that the information on all electronically filed reports are true, complete, and accurate.
- Amended reports can be filed when the committee discovers that an earlier report contains erroneous information (e.g., correcting typos or errors in names/addresses of contributors or vendors).
- However, amended reports cannot conflict with the chairperson’s and treasurer’s certification above (e.g., failing to report contributions or expenditures). If so, it will result in a fine.

Reporting – Disclosure Reports



- Once you are registered and until you terminate, when a report is required to be filed, a report must be filed even if you have no contributions and no expenditures
- All reports filed are public records and immediately available to the public on the Commission's website!

Reporting – Nonprofit Organizations (501(c)(4))

Effective January 1, 2023, noncandidate committees who are 501(c)(4) nonprofit organizations must provide written notice to donors that their name and address will be reported to the Commission if they make a donation individually or in an aggregate of more than \$10,000 and permit that donation to be used for electioneering communications, independent expenditures, or political contributions.

Reporting - Fines

- There is a \$50 fine per day for the first 7 days that a report is not filed when due - \$200 per day thereafter
 - The fine shall not exceed 25% of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report but the minimum fine for a report filed more than 4 days after the due date shall be \$200
- For the Preliminary Primary Report and 2nd Preliminary General Report, the fine is \$300 per day
 - The fine shall not exceed 25% of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report but the minimum fine shall be \$300
- Commission will publish noncandidate committee names on its website that have failed to file a report or timely correct a report



Reporting – Late Contributions/Expenditures Reports

- There are two (2) Late Contribution/Expenditure Reports for noncandidate committees:
 - Late Contributions/Expenditures (Primary) – Due August 7, 2024
 - Late Contributions/Expenditures (General) – Due November 4, 2024
- If you do not have any late contributions or late expenditures, you do not have to file these reports



Reporting – Late Contributions/Expenditures Report

- A late contribution is one that aggregates more than \$500 that is received or made between fourteen (14) calendar days through four (4) calendar days prior to an election
- A late expenditure is an “independent expenditure” made by a noncandidate committee that aggregates more than \$500 that is made between fourteen (14) calendar days through four (4) calendar days prior to an election
- The Late Contributions/Expenditures Report must be filed electronically on the NCFS on or before the 3rd day prior to the election

Reporting – Late Contribution to a Super PAC

- A noncandidate committee making only independent expenditures that receives a late contribution greater than \$5,000 in the aggregate from an entity other than an individual, for-profit business entity, or labor union must provide the following additional information on the Late Contributions Report:
 - The internet address where the contributing entity's disclosure report can be publicly accessed, if the contributing entity is subject to state or federal disclosure reporting requirements;
 - The name, address, occupation, and employer of each funding source that contributed \$100 or more in the aggregate in an election period to the contributing entity; or
 - An acknowledgement that the contributing entity is NOT subject to any state or federal disclosure reporting requirements regarding the source of the contributing entity's funds

Reporting – Late Contributions/Expenditures Report

- The NCFS will create the Late Contributions/Expenditures Report for you after the data is entered
- Under “Preview/Print Report,” click “Late Contributions/Expenditures Report,” then select “Primary” or “General,” then click “Late Contributions/Expenditures Report.” Preview and file the report by doing the same steps under the “File Report” menu.

Reporting – Late Contributions/Expenditures Report

SCHEDULE A - CONTRIBUTIONS RECEIVED

Name and Address	Employer Occupation	Date	Amount
Federal/State Reports or Contributor List		Non-Monetary Category Non-Monetary Description	Aggregate
Doe, John 111 Alakea Street Honolulu HI 96813	ABC Corp. General Manager	07/30/2024	\$1,000.00
			\$1,000.00

SCHEDULE A2 - DONATIONS RECEIVED

Name and Address	Date	Amount	Aggregate
Donor, Jane 333 Pacific Street Honolulu HI 96813	07/29/2024	\$15,000.00	\$15,000.00

SCHEDULE B1 - CONTRIBUTIONS TO CANDIDATES

Name and Address	Date	Non-Monetary Category Non-Monetary Description	Amount	Aggregate
Blangiardi, Rick Friends of Rick Blangiardi P.O. Box 1514 Honolulu HI 96806	08/01/2024		\$4,000.00	\$4,000.00

SCHEDULE B - EXPENDITURES MADE (LATE)

Name and Address	Independent Expenditure Support/Oppose Candidate Name	Date	Category Purpose of Expenditure	Amount
ABC Publishing 111 Bishop Street Honolulu HI 96813	<input checked="" type="checkbox"/> Support Roth, Mitchell	08/02/2024	Advertising, Media & Collateral Materials Mailers	\$5,000.00

Reporting – Electioneering Communication Statements

- "Electioneering communication" means any advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper or by electronic means; or sent by mail at a **bulk rate**, and that:
 - (1) Refers to a clearly identifiable candidate;
 - (2) Is made, or scheduled to be made, either within 30 days prior to a primary or initial special election or within 60 days prior to a general or special election; and
 - (3) Is not susceptible to any reasonable interpretation other than as an appeal to vote for or against a specific candidate.
- Must file a Statement of Information for Electioneering Communications no later than 24 hours of an electioneering communication of more than \$2,000 in the aggregate being publicly distributed. Once a Statement is filed to disclose electioneering communications, you must continue to file Statements no matter how much more money is spent on political advertisements in the same calendar year.
- Statement must include whether or not the electioneering communication is made in coordination, cooperation, or concert with or at the request or suggestion of any candidate, candidate committee, or agent of any candidate if any, and if so, the identification of the candidate, candidate committee, or agent involved; and, for Super PACs, the three top contributors for the advertisement (if applicable).
- TIP: A Statement of Information for Electioneering Communications form is available on the Commission's website which will prompt you in complying with these requirements.

Reporting – Electioneering Communication Statements

Translation:

Noncandidate committees must file an electioneering communication statement no later than 24 hours of an electioneering communication of more than \$2,000 being publicly distributed within 30 days of the primary election (i.e., July 11, 2024 to August 10, 2024) and/or 60 days of the general election (i.e., September 6, 2024 to November 5, 2024).

Once the \$2,000 threshold is reached, noncandidate committees must continue to file all subsequent electioneering communication forms regardless of the amount. For mailers, the disclosure date means the date the mailers are first mailed.

Reporting



➤ You must continue to file disclosure reports even if you have no contributions and/or expenditures until you:

- Return unused contributions to contributors and payoff unpaid vendors;
- File a “Request for Termination of Registration” with a closing bank statement; and
- The request is approved by the Commission staff



Contributions

Contributions



“Contribution” means:

- A gift, subscription, deposit of money, or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:
 - (A) Influencing the nomination for election, or election, of any person to office; or
 - (B) Influencing the outcome of any question or issue that has been certified to appear on the ballot at the next election
- Payment of services rendered to a noncandidate committee without charge or at an unreasonably low charge for the purpose of (A) or (B)

Contributions – Non-Monetary/In-Kind

- “Contribution” includes non-monetary also known as in-kind contributions
 - Goods or services without charge or at a charge that is less than the usual and normal charge for the goods or services
 - “Usual and normal charge” means the price of those goods or services in the market from which they would have been purchased at the time of the contribution
 - If the goods or services are provided at less than the usual and normal charge, the amount of the non-monetary contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount paid by the committee
 - Non-monetary contributions are aggregated with monetary contributions for contribution limit purposes

Contributions



“Contribution” does not include:

- Volunteer services
- Unpaid internet activities for the purpose of influencing an election

Contributions

- Only the treasurer and deputy treasurers shall be authorized to receive contributions on behalf of the noncandidate committee
- A monetary contribution must be deposited into the noncandidate committee's bank account within seven (7) days of receipt by the treasurer or deputy treasurer
- No commingling of campaign funds with any other funds
- Cannot spend cash contributions without first depositing them into the noncandidate committee's bank account
- Cannot accept a contribution of more than \$100 in cash, in the aggregate, from a single person during each election period and shall issue a receipt to the contributor and keep a record of the contribution.

Contributions - Reporting

- For those contributors who contribute **more than \$100**, in the aggregate, in an election period, a contributor's name, address, occupation, employer, contribution amount, and date of deposit will be itemized on Schedule A - Contributions Received

SCHEDULE A - CONTRIBUTIONS RECEIVED					
Name and Address	Employer Occupation	Date	Non-Monetary Category	Amount	Aggregate
Federal/State Reports or Contributor List			Non-Monetary Description		
Doe, John 111 Alakea Street Honolulu HI 96813	General Manager ABC Corp.	05/01/2024		\$1,000.00	\$1,000.00
Total				\$1,000.00	

- If all the information is not on file, the contribution must be returned to the contributor within thirty (30) days of deposit

Contribution Limits

How much can a noncandidate committee receive in contributions?

- A person or other entity may contribute up to \$1,000 to a noncandidate committee in an election
- Unless you are a political party → \$25,000 in any 2-year election period
- Unless your organization is the noncandidate committee → unlimited amount
- Unless you are a ballot issue committee → unlimited amount
- Unless you are a noncandidate committee making solely “independent expenditures” → unlimited amount
 - “Independent expenditures” means an expenditure by a person expressly advocating the election or defeat of a candidate that is not made in concert or cooperation with or at the request or suggestion of the candidate, the candidate committee, a party, or their agents”

Contribution to a Super PAC

- A noncandidate committee making only independent expenditures receives a contribution of more than \$10,000 in the aggregate in an election period from an entity other than an individual, for-profit business entity, or labor union must provide the following additional information:
 - The internet address where the contributing entity's disclosure report can be publicly accessed, if the contributing entity is subject to state or federal disclosure reporting requirements;
 - The name, address, occupation, and employer of each funding source that contributed \$100 or more in the aggregate in an election period to the contributing entity; or
 - An acknowledgement that the contributing entity is NOT subject to any state or federal disclosure reporting requirements regarding the source of the contributing entity's funds

Contributions

➤ Aggregation

All contributions and expenditures of a person whose contributions or expenditures are financed, maintained, or controlled by any corporation . . . or any other person . . . or by any group of those persons . . . shall be considered to be made by a single person.



Contribution - Fundraisers

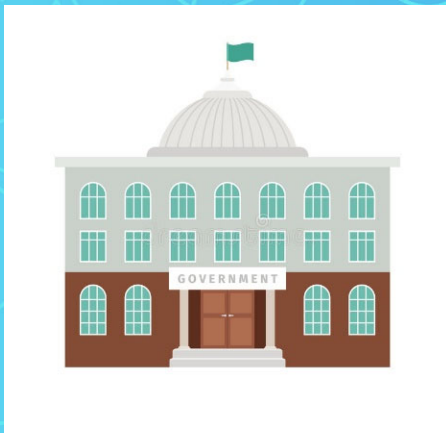
- You must file a “Notice of Intent to Hold a Fundraiser” form with the Commission prior to the fundraiser.
- A “fundraiser” means any function held for the benefit of a candidate, candidate committee, or noncandidate committee that is intended or designed, directly or indirectly, to raise contributions for which any price is charged or any contribution is suggested for attending the function.
- A notice must be eSigned, faxed, mailed, or delivered to the Commission.



Contributions - Fundraisers



- Fundraising in a government facility is prohibited, unless you pay a fee or have a reservation, and the facility has no rules prohibiting it
- **Violation of the prohibition of fundraising on state or county property shall be guilty of a misdemeanor**



Contributions - Prohibitions

1. Excess Contributions
2. False Name Contributions
3. Anonymous Contributions
4. State or County Contractors
5. Foreign National or Foreign Corporations





Excess Contributions – Contributions that exceed the limit

- ✓ Excess contribution not deposited and returned within 7 days of receipt does not have to be reported
- ✓ Excess contribution returned within 30 days of receipt has to be reported but the excess contribution will not escheat to the Hawaii Election Campaign Fund (“HECF”). The contributor may be subject to a fine.
- ✓ Excess contribution not returned within 30 days of receipt has to be reported and the excess contribution escheats to the HECF. The contributor may be subject to a fine.





➤ False Name Contributions

- A person cannot make a contribution in the name of another person
- **Examples** – Company X cannot give its employees \$1,000 each to contribute to candidate committee Z. Company X cannot ask its employees to contribute \$1,000 to candidate committee Z and then reimburse them.
- Any false name contribution shall escheat to the HECF

Contributions - Prohibitions



➤ Anonymous Contributions

- You may not accept anonymous contributions
- If the contributor cannot be identified, the contribution shall escheat to the HECF
- **Exception:** Calabash Bowl - Must have a minimum of 10 people contributing to a bowl at the same political function and the total contributions collected must aggregate to less than \$100



Contributions - Prohibitions



Effective March 31, 2023, a noncandidate committee, shall not accept a contribution of more than \$100 in cash, in the aggregate, from a single person during each election period.

Contributions - Prohibitions



➤ State and County Contractors

- Persons with certain state and county contracts may not make contributions between execution and completion of the contract
- Contracts for the purchase of state or county property, the sale of property to the state or county, provision of “personal services,” or furnishing of materials, supplies or equipment
 - “Personal services” means the performance of services in the fields of health, law, engineering, architecture, construction, accounting, actuarial science, performing arts, or consulting
- Where funds appropriated by the legislative body
- Prohibition is against the person whose name is on the contract

Contributions - Prohibitions



Example:

If ABC Architects has a contract with the State, no funds may be contributed from the treasury of ABC Architects. However, officers, employees, and shareholders of ABC Architects may make contributions from personal funds.

Subcontractor allowed to contribute if they do not have a contract with the State or county.

Contributions - Prohibitions



➤ Foreign National or Foreign Corporations

- Contributions or expenditures made to or on behalf of a candidate or committee by a foreign national or foreign corporation are prohibited
- Exception – Foreign nationals with a green card and a foreign-owned domestic corporation if:
 - Foreign national individuals do not participate in election-related activities, including decisions concerning contributions or the administration of a candidate or noncandidate committee; or
 - The contributions are domestically-derived

Reporting Contributions Received and Other Receipts

➤ **Schedule A - Contributions Received**

- The date a monetary contribution is deposited is deemed to be the date the contribution is received
- A non-monetary contribution shall be disclosed and reported at the contribution's reasonable market value on the date received

➤ **Schedule C - Other Receipts**

- Examples - interest from bank accounts, rebates or refunds from purchases, return of deposits



Donations

Donations – Nonprofit Organizations (501(c)(4))

- Nonprofit organizations operating as a noncandidate committee may use a donation for electioneering communications, independent expenditures, or contributions only upon receipt of written consent from the donor.
- Noncandidate committee shall provide written notice to donors that the donor's name and address may be reported pursuant to this chapter in a public document if the donor provides written consent to use the donation.
- If the donor fails to provide written consent that the donation may be used for electioneering communications, independent expenditures, or contributions, the nonprofit organization shall, within thirty days of receipt of the donation, transmit to the donor a written confirmation by the nonprofit organization's highest ranking official that the donation will not be used and the name and address of the donor will not be reported by the nonprofit organization.

Reporting Donations Received

➤ **Schedule A2 - Donations Received**

- Nonprofit organizations operating as a noncandidate committee are required to report the name and address of each donor making a donation individually or aggregating more than \$10,000 during an election period.

Expenditures

Expenditures

➤ “Expenditure” means:

- Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer of money or anything of value, or payment incurred or made, or the use or consumption of a non-monetary contribution for the purpose of:
 - (A) Influencing the nomination for election, or the election, of any person seeking nomination for election or election to office, whether or not the person has filed nomination papers; or
 - (B) Influencing the outcome of any question or issue that has been certified to appear on the ballot at the next applicable election
- Any payment by any person other than the noncandidate committee, of compensation for the services of another person that are rendered to the noncandidate committee for any purpose mentioned in (A).

Expenditures

“Expenditure” does not include:

- Volunteer services
- Nonpartisan voter registration efforts
- Unpaid internet activities for the purpose of influencing an election



Expenditures - Reporting

- Reports must contain all expenditures made or incurred (when the services are rendered or the product delivered)
 - Example: 50 cases of copier paper are delivered on July 24, 2024. An invoice is not provided until July 30, 2024. This must be reported as an unpaid expenditure in the noncandidate committee's Preliminary Primary Report.
- Name and address of each vendor (who you paid)
- Amount, date, and purpose of expenditure
- Itemized credit card payments (not Visa payment \$1,200, but ABC Printing – 6 banners - \$1,200) – because not known if bona fide purchase
- Payments to advertising agencies and consultants must be itemized

Expenditures

Examples of what you may expend committee funds on:

- Contribution to candidates, other noncandidate committees, and parties
- Banners
- Brochures
- Music at a fundraiser
- Food for volunteer sign holders
- Advertisements
- Durable assets



Durable Assets



Non-consumable supply or equipment with a minimum purchase value of \$250 and a useful life of twelve (12) months or more (i.e., computers, cell phones, cameras, printers)



Expenditures - Prohibitions



You may not expend committee funds on personal expenses of officers

- Groceries and personal meals
- Drycleaning or laundry
- Paying mortgage or rent
- Donations to charitable organizations
- Donations to public schools



Reporting Contributions to Candidates, Expenditures Made, Unpaid Expenditures and Durable Assets

Schedule B1 - Contributions to Candidates

- Not applicable for ballot issue committees and independent expenditure committees

Schedule B2 - Expenditures Made

Schedule D - Unpaid Expenditures

- Must be reported until payment is made in full or the debt is forgiven – if debt is forgiven, it becomes a contribution

Schedule E - Durable Assets

- Description & cost, date of acquisition or disposition, & name, address, city, state, & zip code of vendor or contributor
- Also need to list as an “Expenditure Made” (Schedule B2)
- If the durable asset is sold, the sales proceeds must be reported as an “Other Receipt” (Schedule C)
- When you dispose of a durable asset, you must enter a disposition of the item on Schedule E under “Add disposition”
- Will automatically attach to future disclosure reports



Advertising

Advertising

Advertisements – if you place an ad for or against a candidate, it must state:

1. Who paid for the ad (i.e., “paid for by”) – name & address of the noncandidate committee or other person paying for the ad
2. Notice in a prominent location stating that the ad is done with or without the approval and authority of the candidate

* If you miss any of these items, you will be subject to a \$150 fine per ad (not to exceed an aggregate of \$5,000)

Note: Advertisement disclaimers must be on signs and banners

Advertising

- An advertisement shall contain an additional notice in a prominent location immediately after or below the notices required by section 11-391, if the advertisement is broadcast, televised, circulated, or published, including by electronic means, and is paid for by a noncandidate committee that certifies to the commission that it makes only independent expenditures.
- The additional notice shall start with the words, “The three top contributors for this advertisement are”, followed by the names of the three top contributors.
- “Top contributor” means a contributor who has contributed an aggregate amount of \$10,000 or more to a noncandidate committee within a twelve-month period prior to the purchase of an advertisement.

Advertising

Independent Expenditure – As a noncandidate committee, if you run an advertisement for or against a candidate and **do not coordinate** any phase of it with the candidate (i.e., photo, layout, dates published, cost, text, placement), it is not a contribution to that candidate → it is an “independent expenditure”

- Whenever a candidate “coordinates” activity with you (e.g., placing an advertisement), it is considered a contribution to that candidate
- Beware, the U.S. Supreme Court has said a “wink and a nod” can be considered “coordinated” activity! (McConnell v. FEC, 540 U.S. 93, 106, 124 S.Ct 619, 637 (2003))

The advertisement must state it is without the approval and authority of the candidate

Termination


Termination

To terminate a noncandidate committee, you must:

- File with the Commission a “Request for Termination of Registration” form with a copy of the committee’s closing bank statement showing a “zero” balance
- When the Commission approves the termination request, a copy of the approved form will be mailed to the noncandidate committee
- NOTE: A noncandidate committee must continue to file Disclosure Reports until officially terminated by the Commission



“Request for Termination of Registration” Form


STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
235 S. Beretania Street, Room 300
Honolulu, Hawaii 96813
Phone: (808) 586-0285/Fax: (808) 586-0288
www.hawaii.gov/campaign

NONCANDIDATE COMMITTEE REQUEST FOR TERMINATION OF REGISTRATION

Noncandidate Committee Name: _____

I hereby request to terminate the noncandidate committee’s registration with the Campaign Spending Commission (“Commission”) pursuant to Hawaii Revised Statutes (“HRS”) §11-326. The committee has complied with the following requirements to terminate:

1. The committee has filed a report with the Commission disclosing contributions and expenditures not previously reported by the committee;
2. The committee has no surplus or deficit; and
3. The committee’s bank account has been closed, and a copy of the closing bank statement is attached to this request or will be mailed or delivered to the Commission.

Please check the box if no committee bank account was opened because the committee received no monetary contributions and other campaign funds that needed to be promptly deposited in a depository institution in the name of the noncandidate committee pursuant to HRS §11-351(a).

I hereby certify that the information on this request for termination of registration is true and accurate:

Chairperson’s Signature Date

WARNING
Termination of the committee’s registration is not official until the Commission approves this request. The committee must continue to file reports until this request is approved by the Commission and your committee has received a signed copy. If you do not receive a signed copy within 10 days of filing this request, please call the Commission at (808) 586-0285.

FOR OFFICE USE ONLY

Approved By Date

NCC Termination Form (Rev. 09/2017)

Termination

What you may do with surplus noncandidate committee funds?

- Return contributions to contributors



BE ADVISED



- Any person who recklessly, knowingly, or intentionally violates any provision of this part shall be guilty of a misdemeanor
- Any person who knowingly or intentionally falsifies any report required by this part with the intent to circumvent the law or deceive the commission, or who violates the anonymous contribution section or false name contributions section, shall be guilty of a class C felony (and not eligible for a DAG/DANC)
- Any person who intentionally provides false information concerning the name or address of the person paying for an advertisement shall be guilty of a class C felony
- If in doubt, always call the Commission before you act - prevention is key

BE ADVISED



- Increased Fines for Noncandidate Committee violations if:
 - (1) Fail to comply with Organizational Report requirements → minimum fine of \$1,000 per violation;
 - (2) Fail to have the proper advertisement disclaimer → fine of no less than \$150 for each advertisement; and
 - (3) Fail to identify the top 3 contributors to advertisements paid by Super PACs → fine of \$1,000 per violation

BE FURTHER ADVISED



POSSIBLE CRIMINAL VIOLATIONS

- Misuse of campaign committee funds → fraud (class B felony)
- False name contributions → fraud (class B felony)
- False loans → fraud (class B felony)
- Public funding applications with false name contributors to qualify for public funding → fraud (class B felony) OR false, fictitious, or fraudulent claim (class C felony)
- *If CSC believes that there has been criminal activity, CSC will inform the authorities for criminal investigation and prosecution.

Independent Expenditures

Citizens United Case

In 2010, the U.S. Supreme Court ruled in the Citizens United case that the government could not limit the political spending of a corporation that made only independent expenditures (Super PACS). This is because independent spending cannot result in quid pro quo corruption. The logic behind the ruling is the assumption that the unlimited spending would be independent of candidates.

Yamada Case

In 2012, in Yamada v. Weaver, the federal district court in Hawaii, relying upon Citizens United, held that the state could not enforce the \$1,000 per election contribution limit applicable to noncandidate committees that make only independent expenditures. Thus, Super PACs can receive unlimited amounts of contributions and spend unlimited amounts of money in support of, or in opposition, to candidates. This decision was affirmed by the Ninth Circuit Court of Appeals in Yamada v. Shoda in 2015. On December 1, 2015, the U.S. Supreme Court denied certiorari on Plaintiffs' appeal, and thus, the Ninth Circuit's decision was upheld.

Independent Expenditure

An expenditure by a person expressly advocating the election or defeat of a clearly identified candidate that is not made in concert or cooperation with or at the request or suggestion of the candidate, the candidate committee, a party, or their agents.

Expenditures Not Independent

An expenditure is not independent if:

- (1) The person making the expenditure shares financial responsibility for the costs, production, or dissemination of the communication with a candidate.
- (2) A candidate or the candidate's agent are involved in decisions regarding:
 - (A) The content of the communication;
 - (B) The intended audience for the communication;
 - (C) The means or mode of the communication;
 - (D) The specific media outlet used for the communication;
 - (E) The timing or frequency of the communication; or
 - (F) The size or prominence of a printed communication, or duration of a communication by means, including broadcast, cable, or satellite.

Treatment of Coordinated Expenditures

Expenditures for electioneering communications as defined in HRS §11-341, or any other coordinated activity made by any person for the benefit of a candidate in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate committee, or their agents, shall be considered to be a contribution to the candidate and expenditure by the candidate.



Treatment of the Republication of Materials

The financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, candidate committee, or their agents shall be considered to be a contribution to the candidate.



Hawaii Cases

In Re Sierra Club Hawaii PAC, Docket No. 15-13

A Super PAC downloaded a photograph of a candidate and his family from the candidate's campaign website and used the photograph in independent mailers in support of the candidate. The photograph used, in addition to being on the candidate's campaign website, was also used by the candidate in his own campaign mailers.

The Commission determined that the photograph was campaign material, and thus, the payment for the independent expenditure (i.e., the payment for the republication of campaign material) was a contribution to the candidate under HRS §11-363(a).

Hybrid PACs

Can an entity fund and operate a Super PAC and a traditional PAC at the same time? If so, what are the parameters? This is probably the next question for the Supreme Court.

One appellate court in Emily's List v. FEC, 581 F.3d 1 (D.C. Cir. 2009), held that a hybrid nonprofit entity could make independent expenditures and give contributions to candidates, so long as each side had separate bank accounts. However, this case was decided before Citizens United, which involved a nonprofit entity that only made independent expenditures.

Recently, a different appellate court in Vermont Right to Life v. Sorrell, 758 F.3d 118 (2nd Cir. 2014), held that the existence of separate bank accounts is not enough to show that the independent side is truly independent. The court stated that important factors would include overlap of staff and resources, lack of financial independence, coordination of activities, and the flow of information between the entities.

Increased Fines for Super PAC Violations

- Effective June 23, 2023, the fine for noncandidate committees making only independent expenditures (Super PACs) that have received at least one contribution of more than \$10,000, or spent more than \$10,000 in an election period, is increased to an amount not to exceed \$5,000 for each occurrence or an amount not to exceed three times the amount of the unlawful contribution or expenditure for a campaign finance violation.
- Further, if the noncandidate committee cannot pay, the Commission may order that the fine be paid from the personal funds of the candidate or officers of the noncandidate committee (i.e., chairperson and/or treasurer).

How to Obtain Information



Call us at (808) 586-0285



Visit our website at ags.hawaii.gov/campaign



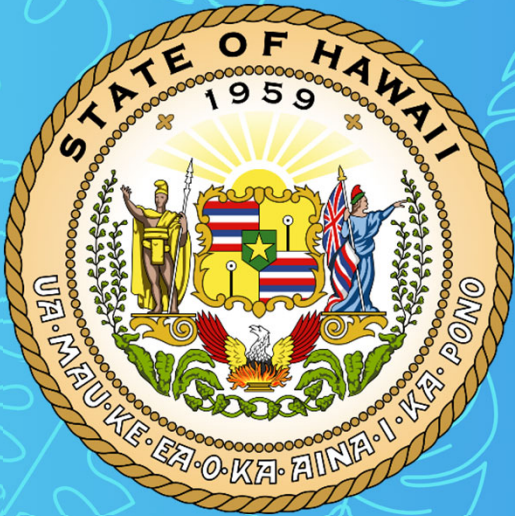
Facebook & X (#hicsc)



Eblasts (Notices, Report Reminders, CSC Newsletter)

Hawaii Campaign Spending Commission

THANK YOU FOR
ATTENDING!



Last Updated: May 2024